

The NACC envisions a justice system that protects the rights of children by ensuring their voices are heard through the assistance of well-trained, well-resourced, independent lawyers.

Beyond the Courtroom

A Plea and a Plan for Children's Attorneys to Engage in Policy Advocacy

Prepared for the 40th National Child Welfare, Juvenile Justice, and Family Law Conference

Introduction

Hundreds of bills are introduced and deliberated upon by the Georgia General Assembly each year, dozens of which advance policy directly impacting the state's child welfare and juvenile justice systems. The same is true in the U.S. Congress and state legislatures throughout the country. These bills steadily progress through the steps of the lawmaking process, competing with other priority issues for the attention required to pass before the session clock ticks down. Occasionally, an unsuspecting child welfare or juvenile justice bill commands a headline and forces all children's advocates to question why pursuit of what is in the "best interest of children" is such a politically-charged objective.



Child advocates in Georgia witnessed such an occasion during the 2017 session General Assembly. A substantive revision to the state's adoption code, which was intended to modernize and technically update its provisions, held bipartisan appeal and was moving with relative ease through the process. House Bill 159, as the bill was known, passed unanimously in the House just 15 legislative days after it was introduced and comfortably made its way to the Senate. There, it was assigned initially to a subcommittee of the Senate Judiciary Committee, where it was heard and voted out swiftly. The bill was considered next by the full Senate Judiciary Committee, where it took an unexpected and controversial turn. After the chair called it up, the 100+ page bill was summarily amended by a member of the committee with a "religious exemption" provision. The two added sections included language permitting private child-placing agencies operating state-funded foster care and adoption programs to refuse to provide services "based on the child-placing →



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Prior to joining the law faculty, Carter served as the appointed state Child Advocate, leading the staff of the Office of the Child Advocate in the fulfillment of the executive agency's statutory mandates to provide independent oversight of the child welfare system and coordination of activities related to child injury and fatality review and prevention. She has extensive experience in public administration and policy, having also worked for the state's Court Improvement Project, a federally-funded program focused on improving the processing of civil child abuse and neglect cases in juvenile courts.

Carter has published several articles on child welfare topics including child representation and federal regulatory schemes, has been involved with the drafting and passage of multiple pieces of state legislation, and is a frequent presenter on juvenile law topics to child welfare and juvenile court professionals. She was selected as a 2009 Marshall Memorial Fellow. Carter received her undergraduate degree in psychology and her law degree from the University of Illinois at Urbana-Champaign.

» Beyond from previous page

agency's mission as evidenced by its written policy, statement, or other document."¹ The amendment further insulated the private agency's decision by prohibiting the public child welfare agency from taking any "adverse action" and by waiving the state's sovereign immunity defense in any action for declaratory or injunctive relief brought by an aggrieved private agency.² Despite tactical maneuvers by the House to revive the underlying bill free of the amendment, the bill ultimately did not pass. Good policy succumbed to the political weight of the objectionable amendment and the strategies employed to advance it.

Like all public policies, child welfare religious exemptions ostensibly reflect "sets of value priorities and casual assumptions about how to realize them."³ Condemned by LGBT advocates as a license to discriminate, religious exemption laws are viewed as specific threats to the civil rights of LGBT people and same-sex couples.⁴ Conversely, religious objectors argue the need for such laws to protect the free exercise of their sincerely held faith beliefs.⁵ Is a child welfare religious exemption a

1. House Bill 159, <http://www.legis.ga.gov/legislation/en-US/Display/20172018/HB/159>.

2. Id.

3. Hugh Hecló, *SOCIAL POLICY IN BRITAIN AND SWEDEN* (1974), discussed in Paul A. Sabatier, *An Advocacy Coalition Framework of Policy Change and the Role of Policy-Oriented Learning Therein*, 21 *Policy Sciences* 2/3 (1998).

4. See e.g., Human Rights Watch, <http://www.hrc.org/blog/danger-lies-behind-title-of-anti-lgbtq-child-welfare-bill>.

5. The U.S. Conference of Catholic Bishops, a lead proponent of religious exemptions, published a fact sheet on the Child Welfare Provider Inclusion Act of 2017 that asserts the Act is needed "because child welfare service providers are being subjected to discrimination because of their sincerely held religious beliefs and moral convictions," citing the experience of faith-based providers in Massachusetts, Illinois, California, and the District of Columbia who terminated their foster care and adoption programs

prudent course of action to meet the needs of children in foster care? Does it promote greater precision in the matching of a child's needs to his or her placement resource? Or, does it impose an unnecessary constraint on an already overburdened and under-resourced child welfare system? Children's lawyers are an indispensable stakeholder group whose perspective is vital to an informed debate.

Expressing the "best interests of the child" as a matter of law and policy is not always a straightforward exercise. The policymaking process invariably is convoluted by a host of ideological, political, experiential, fiscal, and theoretical considerations held by decision-makers. Too often, policymakers are guided in their decision-making only by their casual assumptions, incomplete understanding, and preconceptions, none of which equips them to contend with the complex realities of system-involved children and families. Children's attorneys have a special obligation as public citizens to engage in the policymaking process — to inform it with their expertise, to influence it based on their position and power, and to improve the law and its administration. By marrying the reality of "what is" with the aspiration of what "should be" toward a shared public agenda for children's justice, children's attorneys can change the context for practice in ways that promote better outcomes for their child-clients through more deliberate and consistent engagement in policy advocacy.

in objection to regulatory, policy and/or statutory prohibitions against discrimination on the basis of sexual orientation for youth and their caregivers in the child welfare system. <http://www.usccb.org/issues-and-action/marriage-and-family/marriage/promotion-and-defense-of-marriage/upload/Backgrounder-Inclusion-Act-2017.pdf>.

Effective Policy Advocacy

As Franklin Roosevelt once observed, "[I]n politics, nothing happens by accident. If it happens, you can bet it was planned that way." Legislative politics and policymaking are intentional processes by which public preferences are translated into policy outcomes. To the extent public sentiment can →

IN THIS ISSUE:

Beyond the Courtroom	1
Message from the Editor	9
Congrats to the 2017 NACC Award Winners	9
Introducing NACC Executive Director, Kim Dvorchak	10
Reducing Reliance on Non-Family Placements: New Tools for Legal Advocacy	11
Membership Matters	12
Thank You to Our Platinum Lifetime, Gold, and Silver Members!	12
NACC Membership Survey Results	13
Child Welfare Law Certification	14
NACC Joins Multi-Organization Coalition to Support and Advocate for Continued Court Improvement Program (CIP) Stability and Capacity	15
National Association of Counsel for Children	17

be ascertained, policy changes can be predicted. For example, the kind of child welfare religious exemption introduced in Georgia's legislature last year was a strategically orchestrated extension of broader efforts to enact general Religious Freedom Restoration Act⁶ (RFRA) protections at the state level. Adopted in 25 states, these laws create specific exemptions for people, churches, and non-profit organizations from state laws that burden their religious beliefs. Adapted approaches focusing on foster care and adoption services generally permit state-licensed child welfare agencies to refuse to place and provide services to children and families if doing so conflicts with their written religious beliefs or moral convictions.⁷ The earliest enactment of a religious exemption specific to child placing agencies dates to 2003 in North Dakota, followed by Virginia in 2012. The movement found new energy in recent years as demonstrated by the enactment of similar laws in five additional states since 2015,⁸ and highly visible political overtures including the introduction of the "Child Welfare

6. The Religious Freedom Restoration Act of 1993, Pub. L. No. 103-141, 107 Stat. 1488 (November 16, 2993), codified at 42 U.S.C. 2000bb through 42 U.S.C. 2000bb-4. Gives religious objectors a statutory right to exemptions absent a showing that the denial of an exemption was necessary to serve a compelling government interest. In *City of Boerne v. Flores* (1997), the U.S. Supreme Court ruled that the act exceeded congressional power over the states, but RFRA remains in effect for the federal government.

7. Movement Advancement Project, http://www.lgbtmap.org/equality-maps/religious_exemption_laws. See also <https://www.lambdalegal.org/child-welfare-analysis#ga>.

8. Mississippi passed House Bill 1523 in 2016 permitting "adoption and foster care services" agencies to discriminate based on religious beliefs, among other provisions addressing marriage and family formation by same sex couples. This law has been challenged and overturned by a federal court and is currently stayed from enforcement.

Provider Inclusion Act" in Congress⁹ and a leaked Executive Order.¹⁰

The foreseeability of policy priorities and shifts does not eliminate the barriers to effective engagement. Policy advocacy is often inefficient from a time and cost standpoint; yet success is based on relationship cultivation, which takes time. Presence is the key to building trust and earning credibility which, in turn, are the keys to influencing and engaging others. Moreover, gains are incremental. Because payoffs are not immediate, advocates may not perceive the benefits of their participation in the outcomes of their efforts. The experience of policy and political advocacy is often one of "two steps forward, one step backward" and "hurry up and wait."

Nevertheless, a well-planned and managed advocacy campaign offers clear and specific opportunities for lawyers to participate and fulfill their duties as public citizens.

Public policy development is an iterative process involving the application of reason, evidence, and a values framework to social issues. The planning steps are not linear, but they do follow a predictable, logical cycle. First, the problem must be identified and refined through research about its prevalence, impact, and possible solutions. Using

9. H.R. 1881 and S. 811. First introduced in 2014 and reintroduced in 2015 and 2017. Of note, S.1303 and H.R. 2640, the "Every Child Deserves a Family Act," introduced in June of 2017, is a countermeasure that prohibits discrimination in adoption or foster care placements based on sexual orientation, gender identity, or marital status of the prospective adoptive or foster parent, or the sexual orientation or gender identity of the child involved.

10. A draft Executive Order leaked in early 2017 would allow for a broad religious exemption for federally-funded social service providers, including child welfare agencies and their contractors. See "Discrimination in the Guise of Liberty: A Legal Analysis of Trump's Draft Executive Order on "Religious Freedom." https://ccrjustice.org/sites/default/files/attach/2017/02/Analysis_Religious_Freedom_EO_2.pdf.

that problem definition, a result must be defined and associated goals and objectives identified. Possible solutions are then considered and alternative strategies explored before committing to a plan of action. Once successful, implementation of the policy change should be carefully monitored and evaluated. Unintended consequences and residual or collateral aspects of the original problem often lend themselves to starting the cycle anew, with a revised problem definition. Lawyers can and should participate in every stage of the policy making cycle.



Researchers have theorized that policy change is a product of large scale social, economic, and political changes and the strategic interaction of people within a community to address a problem.¹¹ Scholars building on his work stress that macro factors account for only a portion of changes in social policy over time; equally important is the interaction of specialists within a specific policy →

11. Hecla, *supra* note 4.

arena as they gradually learn more about various aspects of the problem over time and experiment with a variety of means to achieve their policy objectives.¹² These specialists are referred to in the research as “policy subsystems,” and they include a variety of actors interested in a given policy area and/or responsible for the generation, dissemination, and evaluation of policy ideas.¹³ In the context of juvenile law and child advocacy, the policy subsystem includes children’s attorneys and invites their participation as both idea-generators and policy implementers.

Children’s Policy Issues on the Horizon

Reasonable minds can and will disagree as to the laws that best promote positive outcomes for vulnerable children and their families. Proposed policies — some contentious, some mundane — regularly surface in Congress, state legislatures, and other public forums as part of the routine operation of democracy. Indeed, dozens of bills have been introduced in Congress addressing aspects of juvenile law just since the beginning of 2017. They promote changes in child welfare financing and substantive policy related to a host of issues including youth emancipating from foster care, housing stability, interstate placement, employment outcomes, relative care, therapeutic foster care, trauma-informed care, substance abuse and mental health treatment, social worker safety, human trafficking, and tribal adoption. Child welfare provider inclusion acts are just a salient recent example. The point is not the specific example but the illustra-

12. *Id.*

13. *Id.*

tion of policymaking as a human enterprise that adheres to relatively predictable rhythms and is highly dependent on inputs from its participants.

The dozen or so bills currently pending in Congress, which are identified in the chart that follows, offer immediate and low-risk opportunities for engagement. The most visible and urgent public debate is the one surrounding health-care reform and the American Health Care Act (AHCA). Proposals currently under consideration will significantly impact vulnerable children and their families and the service capacity available in communities. The current approaches propose to transform Medicaid from an open-ended funding stream to per capita spending caps or a block grant, which could mean that services will become more limited and exacerbate existing problems with system capacity to meet the individualized needs of children, and particularly those who are hard-to-serve. In addition, states would be permitted to waive essential health benefit coverage, such as mental and behavioral health care and substance use treatment. Limiting access and capacity to critical community-based services in this way could drive more children into foster care or cause them to remain in care longer because parents will be unable to meet their needs. Of note, the AHCA does not repeal the provision providing presumptive Medicaid eligibility until age 26 for any youth aging out of foster care.

A public citizen need only contact their respective member of the House of Representatives or the Senate and request support or opposition. Sponsors and co-sponsors of measures are likewise interested in the degree of support or opposition

and also are the proper audience for any requested changes that better reflect the realities of practice, the needs of systems, or the experience of children and families. These federal bills also signal policy priorities that may have counterparts being introduced or considered in state legislatures. Such opportunities offer greater opportunity for more immediate and more direct impact. Based on trending issues, children’s attorneys can expect to see state legislatures considering juvenile probation fees, raising the age of criminal responsibility, shackling of juveniles, “lunch shaming,” alternatives to detention and reinvestment strategies for juvenile justice reform, and status offense reform measures.

Conclusion

Children’s lawyers have a professional and ethical responsibility to engage in efforts to reform the law to the benefit of the legal system and the people it serves. For children’s attorneys, there is a particularly compelling moral and political calling to improve outcomes for vulnerable children and their families by addressing system inequities. Although the available guidance and academic models for expanded lawyering root this responsibility in traditional courtroom litigation, lawyers are encouraged to extend themselves beyond the courtroom and apply their legal skills through other strategies, including policy advocacy. Because of its systemic focus, policy advocacy avoids potential conflicts with client interests, which may otherwise present a concern for cause lawyers. Additionally, policy advocacy conforms to issue trends and presents reasonably predictable moments of planning and action, making it an accessible and scalable platform for engagement. →

» Beyond from previous page

Most critically, public policy is ultimately about people, perspectives, and politics. It is about every individual in his or her professional and personal capacity, and, for children’s attorneys, it is about outcomes for families and children, the capacity and functionality of service delivery systems, and the integrity of the court process. Advocacy is a

powerful means used to enforce rights, expand and ensure access to resources, and hold the powerful accountable. Active engagement by children’s attorneys is greatly needed on the belief that policy change will produce *real* change for the benefit of the legal profession, institutions of justice, and directly affected clients.

Below you will find a list of congressional bills of interest to child advocates, which was last updated on July 10, 2017. By visiting www.congress.gov you can search for these and other congressional bills of interest.

Bill Number	Title	Sponsor	Committee Assignment	Last Action / Status
H.R. 3024	Stop Child Abuse in Residential Programs for Teens Act of 2017	Rep. Adam Schiff (D-CA)	House Education and the Workforce	Introduced 6/22/2017 and referred to committee
S. 1303 / H.R. 2640	Every Child Deserves a Family Act	Sen. Kristen Gillibrand (D-NY) / Rep. John Lewis (D-GA)	Senate Finance/House Ways & Means	Introduced and referred to committee
H.R. 2508	Child Citizen Protection Act	Rep. Jose Serrano (D-NY)	House Judiciary	Introduced 6/7/2017 and referred to subcommittee on Immigration and Border Security
H.R. 1761	Protecting Against Child Exploitation Act of 2017	Rep. Mike Johnson (R-LA)	Senate Judiciary	Passed House, referred to Senate committee 6/5/2017
S. 1268	Child Protection and Family Support Act of 2017	Sen. Steve Daines (R-MT)	Senate Finance	Introduced 5/25/2017, referred to committee
H.R. 883	Targeting Child Predators Act of 2017	Rep. Ron DeSantis (R-FL)	Senate Judiciary	Passed House, referred to Senate committee 5/23/2017
H.R. 695 / S. 705	Child Protection Improvement Act of 2017	Rep. Adam Schiff (D-CA) / Sen. Orrin Hatch (R-UT)	Senate Judiciary	Passed House, referred to Senate committee 3/23/17
H.R. 1881 / S. 811	Child Welfare Provider Inclusion Act of 2017	Rep. Mike Kelly (R-PA) / Sen. Michael Enzi (R-WY)	House Ways and Means / Senate Finance	Introduced and referred to committee 4/4/2017
H.R. 1103	Child Abuse Accountability Enhancement Act	Rep. Suzan DelBene (D-WA)	House Armed Services	Referred to Subcommittee on Military Personnel 3/23/2017
H.R. 1512	Social Security Child Protection Act of 2017	Rep. Kenny Marchant (R-TX)	House Ways and Means	Referred to Subcommittee on Social Security 3/21/2017
S. 982	Speak Up to Protect Every Abused Kid Act	Sen. Robert Casey, Jr. (D-PA)	Senate Health, Education Labor and Pensions	Introduced and referred to committee 4/27/2017
H.R. 1069 / S. 439	Timely Mental Health for Foster Youth Act	Rep. Brenda Lawrence (D-MI) / Sen. Roy Blunt (R-MO)	House Ways and Means / Senate Finance	Referred to Subcommittee on Trade 2/24/2017 / Introduced on and referred to committee 2/17/2017 →

Bill Number	Title	Sponsor	Committee Assignment	Last Action / Status
H.R. 1188	Adam Walsh Reauthorization Act of 2017	Rep. James Sensenbrenner, Jr.	Senate Judiciary	Passed House, referred to Senate committee 5/23/2017
S. 876 / H.R. 2035	Tribal Adoption Parity Act	Sen. Heidi Heitkamp (D-ND) / Rep. Derek Kilmer (D-WA)	Senate Finance / House Ways and Means	Introduced and referred to committee 4/6/2017
S. 1064 / H.R. 2401	Anti-Lunch Shaming Act of 2017	Sen. Tom Udall (D-NM) / Rep. Michelle Lujan Grisham (D-NM)	Senate – Agriculture, Nutrition, and Forestry / House Education and the Workforce	Introduced and referred to committee 5/8/2017
H.R. 2801	HOT CARS Act of 2017	Rep. Tim Ryan (D-OH)	House – Energy and Commerce, Transportation and Infrastructure	Referred to Subcommittee on Digital Commerce and Consumer Protection 6/9/2017
S. 1067	CONNECT Act	Sen. Gary Peters (D-MI)	Senate Finance	Introduced and referred to committee 5/8/2017
H.R. 1620	Grandparent-Grandchild Medical Leave Act	Rep. Raul Ruiz (D-CA)	House – Education and the Workforce, Oversight and Government Reform, House Administration	Introduced and referred to committee 3/17/2017
H.R. 269	Look-back Elimination Act of 2017	Rep. John Lewis (D-GA)	House Ways and Means	Referred to Subcommittee on Human Resources 1/18/2017
H.R. 2416	Unaccompanied Alien Children Placement Transparency Act of 2017	Rep. David Roe (R-TN)	House Judiciary	Referred to Subcommittee on Immigration and Border Security 5/5/2017
H.R. 2857	Supporting Families in Substance Abuse Treatment Act	Rep. Kristi Noem (R-SD)	Senate Finance	Passed House, referred to Senate Committee 6/21/2017
S. 1178 / H.R. 2532	Vulnerable Children and Families Act of 2017	Sen. Roy Blunt (R-MO) / Rep. Kay Granger (R-TX)	Senate Foreign Relations / House Foreign Affairs	Introduced and referred to committee 5/18/2017
H.R. 1260	GRAND Act	Rep. Jose Serrano (D-NY)	House Financial Services	Introduced and referred to committee 2/28/2017
H.R. 495	Protection of Children Act of 2017	Rep. John Carter (R-TX)	House Judiciary, Foreign Affairs	Amended in Committee 6/21/2017
S. 434 / H.R. 1145	Housing for Homeless Students Act of 2017	Sen. Al Franken (D-MN) / Rep. Keith Ellison (D-MN)	Senate Finance / House Ways and Means	Introduced and referred to committee 2/16/2017
H.R. 253	Family First Prevention Services Act of 2017	Rep. Vern Buchanan (R-FL)	House Ways and Means	Referred to Subcommittee on Human Resources 1/13/2017
H.R. 2834	Partnership Grants to Strengthen Families Affected by Parental Substance Abuse Act	Rep. Danny Davis (D-IL)	Senate Finance	Passed House, referred to Senate committee 6/21/2017
H.R. 1808	Improving Support for Missing and Exploited Children Act of 2017	Rep. Brett Guthrie (R-KY)	Senate Judiciary	Passed House, referred to Senate committee 5/24/2017 →

Bill Number	Title	Sponsor	Committee Assignment	Last Action / Status
H.R. 2682	Supporting Foster Youth in Successful Parenting Act of 2017	Rep. Danny Davis (D-IL)	House Ways and Means, Education and the Workforce	Introduced and referred to committee 5/25/2017
H.R. 2043	Fair Day in Court for Kids Act of 2017	Rep. Zoe Lofgren (D-CA)	House Judiciary	Referred to Subcommittee on Immigration and Border Security 5/1/2017
H.R. 2742 / S. 1257	Modernizing the Interstate Placement of Children in Foster Care Act	Rep. Jackie Walorski (R-IN) / Sen. Todd Young (R-IN)	House Ways and Means / Senate Finance	Passed House 6/21/2017, awaiting Senate committee assignment / Introduced in Senate and referred to committee 5/25/2017
H.R. 2473	Put Trafficking Victims First Act of 2017	Rep. Ann Wagner (R-MO)	Senate Judiciary	Passed House, referred to Senate committee 5/24/2017
H.R. 2268	Empowering Educators to Prevent Trafficking Act	Rep. Susan Davis (D-CA)	House Education and the Workforce	Introduced and referred to committee 5/1/2017
H.R. 2069	Fostering Stable Housing Opportunities Act of 2017	Rep. Michael Turner (R-OH)	House Financial Services	Introduced and referred to committee 4/6/2017
H.R. 3092	Permanency for Children Act of 2017	Rep. Vicky Hartzler (R-MO)	House Ways and Means	Introduced and referred to committee 6/28/2017
H.R. 2290	Family-Based Care Services Act of 2017	Rep. Rosa DeLauro (D-CT)	House Energy and Commerce	Referred to Subcommittee on Health 5/5/2017
S. 1312	Trafficking Victims Prevention Act of 2017	Sen. Chuck Grassley (R-IA)	Senate Judiciary	Amended 6/29/2017
H.R. 2952	Fostering Youth Mentoring Act of 2017	Rep. Karen Bass (D-CA)	House Ways and Means	Introduced and referred to committee 6/20/2017
H.R. 1757 / S. 774	Trauma-Informed Care for Children and Families Act of 2017	Rep. Danny Davis (D-IL) / Sen. Heidi Keitkamp (D-ND)	House Education and the Workforce, Energy and Commerce, Ways and Means, Judiciary/ Senate Health, Education, Labor, and Pensions	Referred to House Subcommittee on Crime, Terrorism, Homeland Security and Investigations 4/12/2017 / Referred to Senate committee 3/29/2017
S. 534 / H.R. 1973	Protecting Young Victims from Sexual Abuse Act of 2017	Sen. Dianne Feinstein (D-CA) / Rep. Susan Brooks (R-IN)	Senate Judiciary / House Judiciary, Education and the Workforce	Placed on Senate Calendar 6/8/2017 / introduced in Senate and referred to committee 6/5/2017
H.R. 1511/ S. 611	Homeless Children and Youth Act of 2017	Rep. Steve Stivers (R-OH) / Sen. Dianne Feinstein (D-CA)	House Financial Services, Education and the Workforce / Senate Banking, Housing, and Urban Affairs	Introduced and referred to committee 3/13/2017
H.R. 53	CATCH Traffickers Act of 2017	Rep. Sheila Jackson Lee (D-TX)	House Judiciary	Referred to Subcommittee on Crime, Terrorism, Homeland Security, and Investigations 1/12/2017



Bill Number	Title	Sponsor	Committee Assignment	Last Action / Status
H.R. 2512	Foster Youth and Driving Act	Rep. Danny Davis (D-IL)	House Ways and Means	Introduced and referred to committee 5/18/2017
S. 1311 / H.R. 2803	Abolish Human Trafficking Act of 2017	Sen. John Cornyn (R-TX) / Rep. Ted Poe (R-TX)	Senate Judiciary / House Judiciary, Foreign Affairs, Energy and Commerce, Homeland Security	Amended in Judiciary Committee 6/29/2017 / Introduced and referred to House Subcommittee on Africa, Global Health, Global Human Rights and International Organizations 6/27/2017
H.R. 1842	Strengthening Children's Safety Act of 2017	Rep. John Ratcliffe (R-TX)	Senate Judiciary	Passed House and referred to Senate committee 5/23/2017
H.R. 693	Protecting Our Children Act	Rep. Dennis Ross (R-FL)	House Education and the Workforce	Introduced and referred to committee 1/24/2017
S. 684 / H.R. 1650	National Adoption and Foster Care Home Study Act	Sen. Kirsten Gillibrand (D-NY) / Rep. Jared Huffman (D-CA)	Senate Health, Education, Labor and Pensions / House Education and the Workforce	Introduced and referred to committee 3/21/2017
H.R. 2847	Improving Services for Older Youth in Foster Care Act	Rep. John Faso (R-NY)	Senate Finance	Passed House and referred to Senate Committee 6/21/2017
S. 1392	Public-Private Advisory Council to End Human Trafficking Act	Sen. Orrin Hatch (R-UT)	Senate Judiciary	Introduced and referred to committee 6/21/2017
H.R. 1748	Opening Doors for Youth Act of 2017	Rep. Bobby Scott (D-VA)	House Education and the Workforce	Introduced and referred to committee 3/28/2017
H.R. 1809	Juvenile Justice Reform Act of 2017	Rep. Jason Lewis (R-MN)	House Education and the Workforce	Passed House, waiting for Senate committee assignment 5/24/2017
S. 860	Juvenile Justice Delinquency Prevention Reauthorization Act of 2017	Sen. Chuck Grassley (R-IA)	Senate Judiciary	Introduced and referred to committee 4/5/2017
H.R. 2899	Second Chance Reauthorization Act of 2017	Rep. James Sensenbrenner, Jr. (R-WI)	House Judiciary	Introduced and referred to committee 6/13/2017
H.R. 1926	Protecting Youth from Solitary Confinement Act	Rep. Tony Cardenas (D-CA)	House Judiciary	Introduced and referred to Subcommittee on Crime, Terrorism, Homeland Security, and Investigations 4/26/2017
H.R. 1925 / S. 874	At-Risk Youth Medicaid Protection Act of 2017	Rep. Tony Cardenas (D-CA) / Sen. Christopher Murphy (D-CT)	House Energy and Commerce / Senate Finance	Introduced and referred to Subcommittee on Health 4/7/2017 / Introduced and referred to committee 4/6/2017
S. 866 / H.R. 1885	Prohibiting Detention of Youth Status Offenders Act of 2017	Sen. Robert Casey, Jr. (D-PA) / Rep. Tony Cardenas (D-CA)	Senate Judiciary / House Education and the Workforce	Introduced and referred to committee 4/6/2017 / Introduced and referred to committee 4/4/2017



MESSAGE FROM THE EDITOR

Dear NACC members,

We are grateful for your membership and engagement with us. We were pleased to see many of you last month at the 40th Annual NACC Conference in New Orleans. For those of you who were unable to attend, please consider joining us next year in San Antonio, where we will wrap up our 40th anniversary celebration.

There is much to celebrate. Although as a field and as a nation, we are facing a challenging time in many ways, challenges often lead us to opportunities if we are open to them. This edition's lead article, *Beyond the Courtroom*, is a companion piece to the conference session: **Acting as an Agent of Change** and explores the many ways that we, as advocates, have opportunities to make an impact through policy, legislative and systemic advocacy.

NACC is also taking the opportunity to become more engaged in the work you care about. Also in this edition, you will see the results of the membership survey NACC conducted (thank you to those who responded). NACC is actively working to prioritize and implement your feedback. We are an organization dedicated to continuously supporting advocates for children and families. Therefore, if you couldn't complete our survey, don't worry, we want to hear from you year-round and when it's relevant for you.

NACC is working on policy and systemic advocacy to improve the systems you work in and the systems that our clients must navigate. To that end, NACC recently joined a National CIP Advocacy Multi-Organization Coalition. In this edition, you will see an example of the types of advocacy that NACC and the coalition is working on.

And finally, speaking of "agents of change", NACC was pleased to present two awards at the conference: Outstanding Legal Advocate and the Outstanding Young Lawyer Award. You can learn more about the award winners in this edition. Congratulations to them!

On behalf of NACC, thank you for your membership and your continued engagement.

Sincerely,

Brooke N. Silverthorn



Congrats to the 2017 NACC Award Winners

Outstanding Legal Advocate: The NACC created the Annual Outstanding Legal Advocacy Award to honor excellence in the field of children's law and advocacy. The Award is presented annually to individuals making significant contributions to the well-being of children through legal representation or other advocacy efforts.

Award Winner: Jill Johnson

Jill Johnson is the Deputy Chief of the Marion County Public Defender Agency, Juvenile Division. Ms. Johnson is a tireless advocate for children. In addition to supervising a staff and handling a caseload of her own, Ms. Johnson has also pushed for significant legislative and system reform in Indiana. To quote her co-workers, "when Jill observes an issue in Indiana law or Marion County's court process that she believes is unfair to children, she'll convene a committee to discuss possible ways to change it. Leading members of the criminal justice community do not hesitate to become involved in positive changes with Jill, as her strategies to combat an injustice are creative and effective." Please join the NACC in congratulating and honoring Ms. Johnson for her work and commitment to high quality legal representation for children, as well as system reform.

Outstanding Young Lawyer Award: The NACC created the Annual Outstanding Young Lawyer Award to encourage the development of legal representation of children by honoring the work of dedicated and talented attorneys early in their careers. The award is presented to a young lawyer who has been in practice for five years or less and who has made a significant contribution to the well-being of children through legal representation or other advocacy efforts.

Award Winner: Jane Hogan

Jane Hogan is currently in private practice representing children and parents. She is also a staff attorney with the LSU Parole and Re-Entry Clinic. In her short career, Ms. Hogan has distinguished herself as a fierce advocate for her clients. She has successfully argued more appeals on behalf of children and parents in Louisiana than many attorneys who have practiced for years. As one of her supervisors said: "From the very beginning, I saw in Jane an unwavering refusal to accept the injustices that befall our vulnerable juvenile clients in a flawed and under-resourced system." Please join the NACC in congratulating and honoring Ms. Hogan for her outstanding legal advocacy on behalf of children and parents in Louisiana. ■

Introducing NACC Executive Director, Kim Dvorchak

Excerpt from her Opening Remarks at the 40th Annual NACC Conference.



Conference Welcome

Thank you to our Board President De Kirkpatrick for the kind introduction and welcome. It is truly my honor to take the helm as NACC's

new executive director and to kick off this 40th National Child Welfare, Juvenile, and Family Law Conference.

There are few places I would rather be than at a national convening dedicated to advancing the rights and well-being of children, youth, and families. I share the experiences of so many of you who come into this work, and grow as practitioners and leaders through learning opportunities and professional exchange.

We gather here because we serve children and families in crisis — which leads us to know more than we would like about pain and suffering, separation and loss.

But we gather with determination to do our best work and flip the script. To stop the harm in whatever form it takes, to help our clients find a more hopeful future, and to insist on a system that is fair and just, and provides opportunity for healing.

That's what brings me to this work, and that's what brings me to NACC — to support your individual advocacy and to elevate our collective voice.

We at NACC are thrilled with this year's conference faculty and are so grateful for their time and leadership. This event would not be possible without the incredible work of our small but mighty team at NACC. Please join me in thanking Conference Co-Directors, Sara Whalen and Daniel Trujillo. Daniel is also our Certification Director and Sara is NACC's Membership Director. Rounding out the Colorado Team is Ginger Burton, Certification Assistant, who supports certification and training. I'm pleased to announce Brooke Silverthorn is now Director of Legal and Policy Advocacy at NACC, working out of the Barton Center at Emory Law School in Atlanta. Thank you to the NACC team for supporting my leadership transition in a very busy time for the organization. Thank you also to the Louisiana Conference Committee, our Conference Sponsors, and Exhibitors. Thank you all for coming together in this historic New Orleans Roosevelt Hotel.

This is an exciting and pivotal moment for NACC, as we begin to celebrate our 40th Anniversary as a nonprofit children's legal advocacy association.

40 years ago, Jimmy Carter was president, Apple had just released its second computer, and Star Wars first opened in movie theaters.

And while some people were boogying to the Bee Gees on their roller skates, a man named Don Bross put pen to paper and incorporated two new non-

profit associations this very week in August of 1977: The International Society for the Prevention of Child Abuse & Neglect, and the National Association of Counsel for Children.

NACC was born at a meeting of attorneys in Denver, Colorado. Don Bross and others recognized the need for the effective representation of children in abuse and neglect cases, and sought to address the lack of infrastructure to support children's attorneys. Don and a group of about 15 people established NACC and held its first conference in 1977. John Ciccolella created a 400-page trial notebook and everyone had to pay \$50 to attend --even the faculty. They started the Guardian and a membership program. It was the beginning of a national back-up center for child welfare professionals—to serve those who serve children.

And look at our community today! Over the last 40 years practitioners became leaders, who developed organizational partnerships, and leveraged funding to grow a coalition of effective children's legal advocates. Together as a field we have produced impactful results advancing the rights and well-being of children and families. We thank and acknowledge Don Bross for all of his work advancing children's justice and children's representation.

A nonprofit organization doesn't flourish over 40 years without the contributions of many, many people. Thank you to the current and past NACC Board of Directors, for your incredible commitment to the mission and the success of the National Association of Counsel for Children. And we also →

Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has. ■ Margaret Mead

remember Judge Willie Lovett, who was a mentor to many in this room, and served on NACC's Board of Directors until he passed earlier this year — his presence is deeply missed by all.

Thank you to the numerous Red Book authors and editors, the hundreds of Child Welfare Law Specialists, and the thousands of NACC Members and conference faculty.

The National Association of Counsel for Children is committed to serving this community and to exercising our collective voice:

- *To ensure that every child and parent has the right to counsel and receives high quality representation at all stages of the proceedings;*
- *To ensure that to every extent safely possible, children remain or are reunified with their families, or find permanency in a family setting;*
- *To ensure child welfare law specialists and practitioners are recognized for their expertise, provided due compensation, and have reasonable caseloads;*
- *To join with our allies in the racial justice, immigration, disability, and LGBTQ movements to ensure that prejudice and implicit bias do not drive decisions about children, youth, and families.*

Thank you for all of the impactful work you do every day to bring hope, healing and justice to children, youth, and families. We are honored to support your advocacy. As you experience the next two and a half days together, ask yourself—what projects will you start to advance justice for children and families? ■

Reducing Reliance on Non-Family Placements: New Tools for Legal Advocacy



by Brooke Silverthorn, JD, CWLS, NACC Director of Legal & Policy Advocacy

Have you ever been in a hearing at which the Department argued that a child or youth should be placed in a group residential setting? As counsel for the child or the child's parent, when you argued against congregate care being in the child's best interest, do any of these responses sound familiar: "we have nowhere else to place him, his behavior is out of control" or "she can't function in a family setting?" I'm not picking on agency attorneys, they have a client to represent, too. But, as a former agency attorney myself, I did find myself wondering (and often asking) whether my client had exhausted all other avenues and whether the decision was based on evidence that it was in the child's best interest. Sometimes the decision to "place" a child in a residential treatment facility is a legitimate and necessary intervention. But how do we, as lawyers and judges, know when it is legitimate and necessary and when it's not? And if it's not, how can we best advocate for a different result?

Some new advocacy tools have been created to assist attorneys and judges in navigating the issues surrounding congregate care settings for children who are in out-of-home placement. Recently, NACC, in collaboration with the ABA Center on Children and the Law, partnered with the Annie E. Casey Foundation to create an

attorney advocacy guide for reducing reliance on non-family placements. Similarly, the National Center for State Courts created a judicial toolkit for safely reducing reliance on group placements for foster children. Judges can also find a bench card and checklist to assist in judicial decision-making. Additionally, the Association of Children's Residential Centers (ACRC) and the National Building Bridges Initiative (BBI) authored a resource guide for judges and legal partners on *Best Practices for Residential Interventions for Youth and their Families*.

These tools were designed in conjunction with a survey to gauge and assess areas of need. The surveys were directed toward three groups: attorneys, judges and CASAs. One area that struck many of us working on these tools was the high percentage (83%) of attorneys and judges who believed that they have very little to no impact on helping to reduce unnecessary group placements. Our intent is for the tools to increase knowledge and advocacy but also to assist attorneys and judges in feeling more empowered and engaged in the process and decision-making. The attorney advocacy guide is designed not only to assist in developing the questions to ask when arguing against a residential placement, but also to know the questions to ask in assessing whether a particular residential setting is appropriate based on the needs of the child or youth.

Questions? Want more information? Contact Brooke.Silverthorn@NACCchildlaw.org. ■

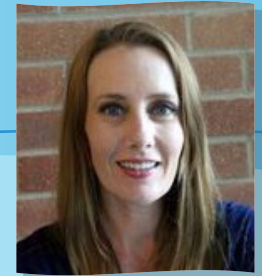


Need Help? Forgot your username or password? It happens! Contact Membership@NACCchildlaw.org and we'll help you personally.



Membership Matters

by Sara Whalen, MA, NACC Membership Director



Thank You to Our Platinum Lifetime, Gold, and Silver Members!

NACC is proud to support all of our members. Stay tuned for coming announcements on our membership drive and member discounts.

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Perks

NACC Silver, Gold and Platinum memberships come with additional benefits, including a copy of *Child Welfare Law and Practice (The Red Book)*. Check out our different membership levels here or contact us at Membership@NACCchildlaw.org for more details.

Group Memberships

Groups of 10 or more receive a deep discount on annual Bronze memberships. Round up some of your favorite people and contact us at Membership@NACCchildlaw.org to establish your group membership.

Profile Update Reminder

If you haven't recently done so, please check your NACC Membership Profile and update it with your latest information and preferences. Many NACC members and website visitors searching our directory looking for experts and networking opportunities. →

Membership Matters, continued



NACC Membership Survey Results

NACC was created to support a growing community of professionals who serve children and families in court. In July NACC distributed an anonymous survey to members and former members (although we surveyed members and former members separately, the results were virtually identical). This survey was the first of many NACC will be asking you to complete over the next year as we conduct strategic planning. We are grateful to the over 400 attorneys who responded. Your feedback is essential as we set priorities and enhance programs to provide tools for your advocacy and opportunities for your engagement in NACC's work.

Although this survey has closed, we appreciate your comments and feedback. Look for more surveys in the near future or reach out to us at Membership@NACCchildlaw.org any time!

Top Five Current Member Benefits

- 1: Annual Conference
- 2: Law & Policy Updates
- 3: Networking/Community Building
- 4: The Red Book Treatise
- 5: The Guardian Law Journal

Top Five Member Requests

- 1: Webinar Trainings
- 2: Law & Policy Updates
- 3: Live State/Local Trainings
- 4: Trial Skills Trainings
- 5: Website Resources

Top Two Member Advocacy Requests

- 1: State and Federal Advocacy on the Right to Counsel, Caseloads, Attorney Pay, Lack of Resources and Support Staff, Quality of Representation
- 2: State and Federal Advocacy on Child Welfare and Related Issues

There was strong interest in participation in NACC's programs—in working groups on specific issues, participation on NACC committees, and leadership convenings.

Communication Preferences



90% of respondents selected email as the top method for NACC communications. We learned that many members have not utilized or were unaware of the **NACC listserv**, so we sent instructions on how to sign-up and join the conversation.

Current Program Satisfaction



67% of respondents were generally satisfied with their NACC Membership, and most of you were generally satisfied with NACC's programs, including the annual conference, *The Guardian*, the listserv, and the website. We learned many members were unaware of NACC's amicus and policy work, and that we need to do a better job communicating and providing tools and resources.

NACC Joins Multi-Organization Coalition to Support and Advocate for Continued Court Improvement Program (CIP) Stability and Capacity



This fact sheet is an example of the type of advocacy that NACC and partner organizations are engaged in to secure full funding for CIP programs in the federal budget.

Request of Congress for Continued Full Funding

\$30M for the State Court Improvement Program Basic, Data, and Training Grants FY2018–FY2022

Improving Outcomes for Children and Families and Enhancing Collaboration between Courts, Child Welfare Agencies, and Tribes

- In 1993, Congress enacted the State Court Improvement Program (CIP) to improve the legal processes in the child welfare system, improve outcomes for children and families, and enhance collaboration between the courts, child welfare agencies, and tribes. Congress authorized \$10 million (M) mandatory funding per year.
- In 2006, Congress authorized two additional CIP grants to support data collection and analysis and training and education. Congress authorized \$10 million (M) mandatory funding for each of the two grants per year.
- The funding is distributed to the highest court in each state. Every participating state receives a base amount of \$85,000, with additional funding pro-rated based on the number of children ages 0-18 living in the state.

- The CIP grants provide opportunities and benefits to state courts, child welfare agencies, and child welfare advocates to collaboratively implement broad, statewide initiatives to improve safety, permanency, and well-being of children in foster care.
- These funds have been essential to enabling courts to implement federal legislation and policy, particularly related to training judges, court personnel, and attorneys on federal laws and regulations and to collecting data to ensure timeliness of case processing and to monitor court performance.
- The CIP grants are the only direct child welfare-related federal funds that state courts receive.

Need for Continued Full Funding for CIP

- To ensure future stability for this bipartisan program, there is an effort under way to reauthorize all three CIP grants at the full \$30 million level, including seeking an offset for the \$20 million data and training grants.
- Full funding would ensure that the federal government's existing investments in reforms, extensive data collection/evaluation, and training are not inadvertently undermined by a two-thirds reduction in funding.
- Many states have faced substantial increases in the number of child welfare cases in their communities in recent years. According to federal

data, between 2013-2015 alone, the population of children in foster care increased by more than 6.5% nationally.

- We ask you for your support and to ensure continued funding for this critical, high-impact program that provides direct benefits to court systems and children and families in your state.

Examples of State CIP Initiatives

Alabama:

- CIP trains guardians ad litem (GALs) who represent children in abuse and neglect cases. As of November 2016, nearly 1,300 GALs had been certified statewide on the master appointment list.
- CIP also trains judges and referees on topics like "What Works for Families Affected by Substance Use Disorder", a topic that continues to grow in significance throughout the country due to the opioid epidemic.

Kentucky:

- CIP has supported training for nearly 200 family and district court judges on issues impacting outcomes related to permanency, timeliness, safety, and due process for children and families.
- CIP supports and trains Citizen Foster Care Review Boards which make 20,000 reviews and recommendations to the judiciary per year, impacting the safety and well-being of 11,000 foster care children. →

- CIP also supports a case management and service coordination role that impacts nearly 40,000 youth in all 120 counties of the Commonwealth.

Nevada:

- The CIP's focus on improving time to permanent home placement since 2011 has resulted in a decrease in time to permanency by 22% or 182 days, time to adoption by 23% or 8 months, and time to termination of parental rights by 20% or 146 days.
- CIP supported juvenile dependency mediation across the entire state of Nevada by developing a 40-hour curriculum to train a skilled dependency mediation panel, developing processes and protocols, and administering the program. Eighty-five percent of the mediations conducted have come to agreement, 87.5% of the families have been reunited, and the fathers involved in mediation attended 72% of their hearings.

Oregon:

- In Douglas County, a plan around strategies to support systemic performance measures was developed with support of CIP. The outcome was a reduction in median days between dependency petition and finalization of adoption to less than 1,000 days.

Tennessee:

- During the last fiscal year, the CIP provided trainings pertaining to child welfare litigation, model foster care review boards, and various distance learning topics to advance the work of child welfare professionals. CIP provided 105 hours of training to 938 attendees. Trainees included judges, magistrates, appointed parent and child

attorneys, GALs, child welfare agency attorneys, court staff, and foster care review board members.

Texas:

- Texas receives the second highest volume of calls reporting suspected minor sex trafficking to the National Human Trafficking Resource Center and there is a clear mandate for Texas judges to respond to the threat of sex trafficking among youth in foster care. When Congress passed the Preventing Sex Trafficking and Strengthening Families Act, CIP developed training and resources for the courts on the new federal requirements related to sex trafficking among children and youth in foster care and the issue of domestic minor sex trafficking.
- With support of CIP, stakeholders were trained on the parameters to monitor the use of psychotropic medications which resulted in establishing new state law that tightened policy around medical consent for psychotropic medications and expanded the rights of the youth in foster care to consent for themselves.
- A Texas CIP-supported initiative (and now considered a national model) to improve educational outcomes of children and youth in foster care significantly improved how the courts, child welfare agency, and state and local school agencies support students in foster care.
- The Texas CIP has led the effort to inform courts and communities about the Indian Child Welfare Act in order to help Indian children remain connected with their families and tribes while navigating child welfare cases. CIP has also introduced many firsts including naming a Tribal Peacemaker to the state's multi-disciplinary CIP advisory coalition, hosting tribal judges at annual child welfare judicial conferences, and enacting

a state law requiring judges to ask about Native American heritage during child welfare hearings.

Washington:

- CIP funds support merging court data with Children's Administration data to provide statutorily required annual reports to the State Legislature. The courts and many child welfare stakeholders rely on this data to inform the decision making process for improving the child welfare system.
- CIP funds support the University of Washington School of Law Court Improvement Training Academy, which directly trains judges and judicial officers.
- CIP funds support programs such as the Parents for Parents Program matching parents who have successfully navigated the child welfare system with parents whose children have recently entered the system to help ensure that children who can safely return home do so.

For further information on CIP advocacy and other NACC policy advocacy initiatives please contact: [Brooke Silverthorn, NACC Director of Legal and Policy Advocacy, Brooke.Silverthorn@NACCchildlaw.org](mailto:Brooke.Silverthorn@NACCchildlaw.org). ■

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NACC Mission

As a multidisciplinary membership organization, we work to strengthen legal advocacy for children and families by:

- Ensuring that children and families are provided with well resourced, high quality legal advocates when their rights are at stake
- Implementing best practices by providing certification, training, education, and technical assistance to promote specialized high quality legal advocacy
- Advancing systemic improvement in child-serving agencies, institutions and court systems
- Promoting a safe and nurturing childhood through legal and policy advocacy for the rights and interests of children and families

The Guardian is an NACC publication.
Brooke Silverthorn, Editor

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